

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JODY DOON NIEDERBERGER

PLAINTIFF

v.

Civil No. 07-5216

CAPTAIN HUNTER PETRAY;
and SHERIFF KEITH FERGUSON

DEFENDANT

O R D E R

Now on this 10th day of February, 2009, comes on for consideration the **Report and Recommendation of the Magistrate Judge, Hon. James R. Marschewski** (document #16, filed January 15, 2009), in this matter, to which no objections have been filed, and the Court, having carefully reviewed said Report and Recommendation, finds that it is sound in all respects, and that it should be adopted *in toto*.

IT IS THEREFORE ORDERED that the **Magistrate Judge's Report and Recommendation is adopted in toto**.

IT IS FURTHER ORDERED that, for the reasons stated in the Magistrate Judge's Report and Recommendation, defendants' Motion for Summary Judgment (Doc. #12) is hereby **granted in part and denied in part**. It is granted in regard to the compensatory or punitive damages as those damages are barred by 42 U.S.C. § 1997e(e). In all other respects, the motion is denied.

IT IS SO ORDERED.

/s/Jimm Larry Hendren
HON. JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE